



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9237-01-R9]

Revision of Approved State Primacy Program for the State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval.

SUMMARY: Notice is hereby given that the State of California revised its approved State primacy program under the federal Safe Drinking Water Act (SDWA) by adopting statutory provisions that effectuate the federal Administrative Penalty Authority (APA). The Environmental Protection Agency (EPA) has determined that California's revision request meets the applicable SDWA program revision requirements and the statutes adopted by California are no less stringent than the corresponding federal regulations and that the State's request for a program revision meets applicable SDWA primacy requirements. Therefore, EPA approves this revision to California's approved state primacy program. However, this determination on California's request for approval of a program revision shall take effect in accordance with the procedures described below in the SUPPLEMENTARY INFORMATION section of this notice after the opportunity to request a public hearing.

DATES: A request for a public hearing must be received or postmarked before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Documents relating to this determination that have been submitted by the State are available for public inspection by appointment at the following locations:

Redding, CA: 364 Knollcrest Drive, Suite 101 Redding, CA 96002, for an appointment at this location please call (530) 224-4800;

Sacramento, CA: 1001 I Street Sacramento, CA 95814, for an appointment at this location please call (916) 449-5577;

Fresno, CA: 265 West Bullard Avenue, Suite 101 Fresno, CA 93704, for an appointment at this location please call (559) 447-3300; or

Glendale, CA: 500 North Central Avenue, Suite 500 Glendale, CA 91203, for an appointment at this location please call (818) 551-2004.

Documents may also be provided by email by submitting a request to

DDWRegUnit@waterboards.ca.gov.

FOR FURTHER INFORMATION CONTACT: Luis Garcia-Bakarich, EPA Region 9, Drinking Water Section via telephone at (415) 972-3237 or via email address at garcia-bakarich.luis@epa.gov.

SUPPLEMENTARY INFORMATION: Background. EPA approved California's initial application for primary enforcement authority ("primacy") of drinking water systems on June 9, 1978 (43 FR 25180). Since initial primacy approval, EPA has approved various revisions to California's primacy program. For the revision covered by this action, EPA promulgated rules incorporating the APA as a requirement of primacy at 40 CFR 142.10(f) on April 28, 1998 (63 FR 23362) to codify the requirements of Section 1413(a)(7) of SDWA. Section 1413(a)(7) of SDWA requires that, as a condition of primacy, states have administrative penalty authority for all violations of their approved primacy program, unless prohibited by the state constitution. Specifically, the APA requires that states must have the authority to impose administrative penalties on public water systems (PWSs) serving a population greater than 10,000 individuals in an amount that is not less than \$1,000 per day per violation. For PWSs serving a population of 10,000 individuals or less, states must have the authority to impose an administrative penalty that is "adequate to ensure compliance." EPA has determined that the APA requirements were adopted into the California Health and Safety Code (HSC) Section 116650 in a manner that California's statute is comparable to and no less stringent than the federal requirements. EPA has also determined that California's program revision request meets all of the regulatory requirements for approval, as set forth in 40 CFR 142.12, including a side-by-side comparison of

the federal requirements demonstrating the corresponding state authorities, a review of the requirements contained in 40 CFR 142.10 necessary for states to attain and retain primary enforcement responsibility, and a statement by the California Attorney General certifying that California's laws and regulations to carry out the program revisions were duly adopted and are enforceable. The Attorney General's statement also affirms that there are no environmental audit privilege and immunity laws that would impact California's ability to implement or enforce the California laws and regulations pertaining to the program revision. Therefore, EPA approves this revision of California's approved State primacy program. The Technical Support Document, which provides EPA's analysis of California's program revision request, is available by email by submitting a request to the following email address: R9dw-program@epa.gov. Please note "Technical Support Document" in the subject line of the email.

Public Process. Any interested person may request a public hearing on this determination. A request for a public hearing must be received before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** and addressed to the Regional Administrator of EPA Region 9, via the following email address: R9dw-program@epa.gov or contact the EPA Region 9 contact person listed above in this notice by telephone if you do not have access to email. Please note "State Program Revision Determination" in the subject line of the email. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. If a timely request for a public hearing is made, then EPA Region 9 may hold a public hearing. Any request for a public hearing shall include the following information: 1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; 2. A brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and 3. The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If EPA Region 9 does not receive a timely and appropriate request for a hearing or a request for a hearing was denied by the Regional Administrator for being frivolous or insubstantial, and the Regional Administrator does not elect to hold a hearing on her own motion, EPA's approval shall become final and effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, and no further public notice will be issued.

Authority: Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300g-2 (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: November 8, 2021.

Elizabeth Adams,

Acting Regional Administrator,

EPA Region 9.

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